IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. No.47 of 1993
Date of decision: 02.11.2006

The Commissioner of Income Tax, Haryana, Rohtak.

---Applicant

Vs.

M/s Dabriwala Steel & Engg. Co., Faridabad.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mr. Yogesh Putney, Advocate
for the revenue.

ORDER:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Delhi Bench, New Delhi, arising out of its order dated 04.12.1991 in I.T.A. No.2254/Del/1988 in respect of assessment year 1980-81:-

> "Whether on the facts and in the circumstances of the case, ITAT is right in law in upholding the order of the CIT(A) who deleted the disallowance of Rs.13,31,784/- on account of provision relating to June, 1972 to December 1977 and Rs.52,711/- on account of previous years adjustments by holding that the issues involved are highly debatable and the assessing officer was not competent to exercise his power to pass rectification order u/s. 154 of the Income-tax Act, 1961?"

The assessee was assessed on 29.01.1983, but, thereafter, an amount of Rs.13,31,784/- claimed on account of provision to Haryana Electric Department and a sum of Rs.52,711/- claimed on account of the previous years' adjustments were disallowed by passing an order of rectification under Section 154 of the Income-tax Act, 1961. The Tribunal accepted the plea of the assessee that

on a debatable issue power of rectification could not be exercised as held by the Hon'ble Supreme Court in ***T.S. Balaram, ITO v. Volkart Bros.,*** (1971)82 ITR 50.

We have heard learned counsel for the revenue.

The Tribunal having followed the judgment of the Hon'ble Supreme Court, we are unable to hold that any question of law arises for consideration.

Accordingly, the reference is returned unanswered.

(ADARSH KUMAR GOEL)
JUDGE

November 02, 2006
ashwani

(RAJESH BINDAL)
JUDGE